

Disclosure Statement Hearing Date and Time: June 28, 2011 at 10:00 a.m. (Prevailing Eastern Time)
Disclosure Statement Objection Date and Time: May 27, 2011 at 4:00 p.m. (Prevailing Eastern Time)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11 Case No.
	:	
LEHMAN BROTHERS HOLDINGS INC., <u>et al.</u>	:	08-13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
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**NOTICE OF MOTION OF NON-CONSOLIDATION
PLAN PROPONENTS FOR ENTRY OF AN ORDER APPROVING THE
DISCLOSURE STATEMENT FOR THE JOINT CHAPTER 11 PLAN FOR
LEHMAN BROTHERS HOLDINGS INC. AND ITS AFFILIATED DEBTORS OTHER
THAN MERIT, LLC, LB SOMERSET LLC AND LB PREFERRED
SOMERSET LLC PROPOSED BY NON-CONSOLIDATION PLAN PROPONENTS**

PLEASE TAKE NOTICE that a hearing on the annexed motion (the “Motion”) of the Non-Consolidation Plan Proponents (the “Plan Proponents”) for entry of an order approving the disclosure statement (as may be amended, modified and/or supplemented from time to time, the “Disclosure Statement”) for the Joint Chapter 11 Plan for Lehman Brothers Holdings Inc. and Its Affiliated Debtors Other Than Merit, LLC, LB Somerset LLC and LB Preferred Somerset LLC Proposed by Non-Consolidation Plan Proponents will be held before the Honorable James M. Peck, United States Bankruptcy Judge, at the United States Bankruptcy Court, Alexander Hamilton Customs House, Courtroom 601, One Bowling Green, New York, New York 10004 (the “Bankruptcy Court”) on **June 28, 2010, at 10:00 am** (prevailing Eastern Time) (the “Disclosure Statement Hearing”).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested by the Motion shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of

the objecting party, the basis for the objection and the specific grounds thereof, shall be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's case filing system and by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with two hard copies delivered directly to Chambers), and shall be served upon: (i) the chambers of the Honorable James M. Peck, One Bowling Green, New York, New York 10004, Courtroom 601; (ii) Bingham McCutchen LLP, 399 Park Avenue, New York, New York 10022, Attn: Joshua Dorchak, Esq., attorneys for Deutsche Bank AG; (iii) Bingham McCutchen LLP, One Federal Street, Boston, MA 02110, Attn: Sabin Willett, Esq., attorneys for State Street Bank and Trust Company; (iv) Brown Rudnick LLP, One Financial Center, Boston, MA 02111, Attn: Steven B. Levine, Esq., attorneys for Cyrus Capital Partners, LP, Silver Point Capital, L.P., and York Capital Management Global Advisors, LLC; (v) Cadwalader, Wickersham & Taft LLP, One World Financial Center, New York, New York 10281, Attn: Howard R. Hawkins, Jr., Esq. – and – 700 Sixth Street, N.W., Washington, D.C. 20001, Attn: Mark C. Ellenberg, Esq. and Peter Friedman, Esq., attorneys for Morgan Stanley & Co. International plc. and Morgan Stanley Capital Services Inc.; (vi) Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York 10006, Attn: Thomas J. Moloney, Esq. and Sean A. O'Neal, Esq., attorneys for D. E. Shaw Composite Portfolios, L.L.C., D. E. Shaw Oculus Portfolios, L.L.C., Goldman Sachs Bank USA, and Goldman Sachs International; (vii) Clifford Chance LLP, 31 West 52nd Street, New York, New York 10019, Attn: Andrew Brozman, Esq., attorneys for Credit Agricole CIB; (viii) Cravath Swaine & Moore LLP, Worldwide Plaza, 825 Eighth Avenue, New York, New York 10019, Attn: Richard Levin, Esq., attorneys for Credit Suisse International; (ix) Dewey &

LeBoeuf LLP, 333 South Grand Avenue, Suite 2600, Los Angeles, California 90071, Attn: Bruce Bennett, Esq. and Monika S. Wiener, Esq., attorneys for certain funds managed by and/or affiliated with: Angelo, Gordon & Co., L.P., Contrarian Capital Management, LLC, Goldentree Asset Management, LP, Hayman Capital Management, LP, Knighthead Capital Management, LLC, Mason Capital Management LLC, Mount Kellett Capital Management, Oaktree Capital Management, L.P., and Serengeti Asset Management LP; (x) Dewey & LeBoeuf LLP, 1301 Avenue of the Americas, New York, New York 10019, Attn: Irena M. Goldstein, Esq., attorneys for The Royal Bank of Scotland plc; (xi) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019, Attn: Jeffrey D. Saferstein, Esq. and Alan W. Kornberg, Esq., attorneys for Oaktree Capital Management, L.P., solely in its capacity as agent on behalf of certain funds advised by it or their respective subsidiaries, and Silver Point Capital, L.P. on behalf of its affiliated investment funds; (xii) White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attn: Gerard Uzzi, Esq. and J. Christopher Shore, Esq., attorneys for the Ad Hoc Group; (xiii) the Office of the United States Trustee for Region 2, 33 Whitehall Street, 21st Floor, New York, New York, 10004, Attn: Tracy Hope Davis, Esq., Elisabetta G. Gasparini, Esq., and Andrea B. Schwartz, Esq.; (xiv) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn: Dennis F. Dunne, Esq., Dennis O'Donnell, Esq., and Evan Fleck, Esq., attorneys to the official committee of unsecured creditors appointed in these cases; (xv) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Harvey R. Miller, Esq., Lori R. Fife, Esq., and Alfredo R. Pérez, Esq., attorneys for the Debtors; and (xvi) all parties who have requested notice in these chapter 11 cases so as to be received no later than **May 27, 2011 at 4:00 p.m.** (prevailing Eastern Time) (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Disclosure Statement Hearing, and failure to appear may result in relief being granted or denied upon default.

Dated: April 29, 2011
New York, New York

[Signature pages follow]

Respectfully submitted,

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In re	:	Chapter 11 Case No.
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Debtors.	:	(Jointly Administered)
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**MOTION OF NON-CONSOLIDATION
PLAN PROPONENTS FOR ENTRY OF AN ORDER APPROVING THE
DISCLOSURE STATEMENT FOR THE JOINT CHAPTER 11 PLAN FOR
LEHMAN BROTHERS HOLDINGS INC. AND ITS AFFILIATED DEBTORS
OTHER THAN MERIT, LLC, LB SOMERSET LLC AND LB PREFERRED
SOMERSET LLC PROPOSED BY NON-CONSOLIDATION PLAN PROPONENTS**

TO THE HONORABLE JAMES M. PECK,
UNITED STATES BANKRUPTCY JUDGE:

The Non-Consolidation Plan Proponents (the “Plan Proponents”), by and through each of their respective undersigned counsel, hereby file this motion (the “Motion”) for entry of an order approving the Disclosure Statement for the Joint Chapter 11 Plan for Lehman Brothers Holdings Inc. and Its Affiliated Debtors Other Than Merit, LLC, LB Somerset LLC and LB Preferred Somerset LLC Proposed by Non-Consolidation Plan Proponents (as may be amended, modified and/or supplemented from time to time, the “Disclosure Statement”). In support thereof, the Plan Proponents respectfully represent as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. Commencing on September 15, 2008 and periodically thereafter (as applicable, the “Commencement Date”), LBHI and certain of its subsidiaries (together with LBHI, the “Debtors”) commenced with this Court voluntary cases under title 11 of the United States Code (the “Bankruptcy Code”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On September 17, 2008, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed a statutory committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Creditors’ Committee”).

4. On September 19, 2008, a proceeding was commenced under the Securities Investor Protection Act of 1970 (“SIPA”) with respect to Lehman Brothers Inc. (“LBI”). A trustee appointed under SIPA is administering LBI’s estate.

5. On March 14, 2011, the Debtors filed a motion seeking, among other things approval of the Debtors’ disclosure statement and related schedule [Docket No. 15078]. By Order to Show Cause, dated March 16, 2011, the Court scheduled a hearing for June 28, 2011 at 10:00 a.m. (the “Disclosure Statement Hearing”) and an objection deadline of May 27, 2011 at 4:00 p.m. to consider approval of the Debtors’ disclosure statement [Docket No. 15078].

6. On March 29, 2011, the Ad Hoc Group of Lehman Brothers creditors (the “Ad Hoc Group”) filed a motion for entry of (i) an order scheduling a disclosure statement hearing and approving the form and manner of notice thereof and (ii) an order approving the disclosure

statement for the Ad Hoc Group's proposed plan [Docket No. 15431] (the "Ad Hoc Group Motion").

7. On April 6, 2011, certain of the Plan Proponents (the "Operating Company Creditors") filed a response to the Ad Hoc Group Motion (the "Response") [Docket No. 15568], seeking entry of an order to apply the Debtors' disclosure statement schedule to any disclosure statements timely filed by potential plan proponents.

8. On April 21, 2011, the Court entered the Order Establishing Schedule for Disclosure Statement Hearing and Related Deadlines for Alternative Disclosure Statements and Plans and Approving Form and Manner of Notice of Disclosure Statement Hearing [Docket No. 16180] (the "Disclosure Statement Hearing Order"), as agreed among the Debtors, the Ad Hoc Group, and the Operating Company Creditors.

9. According to the Disclosure Statement Hearing Order, a schedule relating to the hearing to approve the Debtors' disclosure statement, including the Disclosure Statement Hearing, the deadline to file any objections and responses, and the deadline to file any replies or an omnibus reply (the "Debtors' Disclosure Statement Schedule") shall apply to the consideration of any disclosure statement and related plan filed by a party in interest that otherwise complies with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules and is filed on or before the date that is at least 28 days before the objection deadline under the Debtors' Disclosure Statement Schedule. The Disclosure Statement Hearing Order also approved the form and manner of notice of the Global Disclosure Statement Notice, served by the Debtors, and the form and manner of notice of the Master Service List Disclosure Statement Notice, served by plan proponents of any timely filed alternative plan and related disclosure statement.

10. On April 25, 2011, the Plan Proponents filed the Joint Chapter 11 Plan for Lehman Brothers Holdings Inc. and Its Affiliated Debtors Other Than Merit, LLC, LB Somerset LLC and LB Preferred Somerset LLC Proposed by Non-Consolidation Plan Proponents (as may be amended, modified and/or supplemented from time to time, the “Plan”) and the related Disclosure Statement, in accordance with the deadlines set forth in the Disclosure Statement Hearing Order.

11. The principal distinctions between the Plan and the previous plans that have been filed in these cases are that the Plan (i) fully respects the separate corporate integrity of each of the Debtors, (ii) follows the cardinal bankruptcy principle of treating similarly situated creditors equally, (iii) provides for a fair mechanism for resolving claims of LBHI against the domestic operating company Debtors, and (iv) respects the legal rights and entitlements of creditors. For these reasons, among others, the Plan Proponents submit that they have put forth the only confirmable plan for these cases. The Disclosure Statement describes these distinctions and provides additional information in support of the Plan and incorporates by reference certain aspects of the Debtors’ Disclosure Statement.

12. The Plan Proponents understand that the Debtors served the Global Disclosure Statement Notice on April 25, 2011, providing notice of the Disclosure Statement Hearing for the Debtors’ and any eligible alternative disclosure statements. On April 26, 2011, the Plan Proponents served the Master Service List Disclosure Statement Notice in accordance with the Disclosure Statement Hearing Order.

RELIEF REQUESTED

13. Pursuant to sections 105 and 1125 of the Bankruptcy Code, Bankruptcy Rules 2002, 3017, 9013, 9014 and 9021, and Rules 2002-1, 3017-1, 9013-1 and 9021-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York

(the “Local Rules”), the Plan Proponents seek entry of an order approving the Disclosure Statement (the “Proposed Disclosure Statement Order”), in substantially the form attached hereto as Annex A. At this time, the Plan Proponents are not proposing their own solicitation procedures and intend to consult with the Debtors and the Ad Hoc Group to determine if an agreement can be reached regarding solicitation procedures, including potentially for multiple plans. In the event such agreement cannot be reached, the Plan Proponents intend to seek approval of solicitation procedures by separate motion.¹

BASIS FOR RELIEF REQUESTED

14. Section 1125(b) of the Bankruptcy Code requires that a plan proponent provide “adequate information” regarding a proposed plan prior to soliciting votes for such plan. Section 1125(a)(1) defines “adequate information” to be contained in a disclosure statement as:

[I]nformation of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan.
...

11 U.S.C. § 1125(a)(1).

15. Courts have acknowledged that the “determination of whether the disclosure statement has adequate information is made on a case by case basis and is largely within the discretion of the bankruptcy court.” In re A.H. Robins, Inc., 880 F.2d 694, 696 (4th Cir. 1989) (citing Texas Extrusion Corp. v. Lockheed Corp. (In re Texas Extrusion Corp.), 844 F.2d 1142, 1157 (5th Cir. 1998)); see also Oneida Motor Freight, Inc. v. United Jersey Bank, 848 F.2d 414,

¹ For the avoidance of doubt, the Plan Proponents reserve all rights to object to the Debtors’ motion to approve voting procedures, motion to approve the Derivatives Framework, and any other motion by any proponent of a plan that would affect the voting or solicitation of votes with respect to any plan relating to the Debtors.

417 (3rd Cir. 1988) (“adequate information will be determined by the facts and circumstances of each case”); In re Galerie Des Monnaies of Geneva, Ltd., 55 B.R. 253, 259 (Bankr. S.D.N.Y. 1985); accord H.R. Rep. No. 95-595, 95th Cong., 2nd Sess. 408-09 (1978) (“Precisely what constitutes adequate information in any particular instance will develop on a case-by-case basis. Courts will take a practical approach as to what is necessary under the circumstances of each case, such as the cost of preparation of the statements, the need for relative speed in solicitation and confirmation, and, of course, the need for investor protection.”).

16. The Disclosure Statement contains, or will contain prior to solicitation, the pertinent information necessary for holders of impaired Claims to make an informed decision about whether to vote to accept or reject the Plan, including, but not limited to, a discussion of:

- a) an overview of the Plan and the principal differences between the Plan and the plans proposed by the Debtors and the Ad Hoc Group;
- b) the classification and treatment of Claims and Equity Interests;
- c) the means for implementation of the Plan;
- d) the requirements for confirmation of the Plan;
- e) the Debtors’ post-confirmation governance;
- f) information regarding tax consequences potentially resulting from consummation of the Plan; and
- g) the alternatives to the confirmation and consummation of the Plan.

17. The Plan Proponents respectfully submit that the Disclosure Statement complies with all aspects of section 1125 of the Bankruptcy Code. The Plan Proponents will demonstrate at the Disclosure Statement Hearing that the Disclosure Statement addresses the information set forth above in a manner that provides holders of impaired claims that are entitled to vote to accept or reject the Plan with adequate information and should therefore be approved.

NOTICE

18. The Plan Proponents have served notice of this Motion on (i) the U.S. Trustee; (ii) the attorneys for the Debtors; (iii) the attorneys for the Creditors' Committee; (iv) the Securities and Exchange Commission; (v) the Internal Revenue Service; (vi) the United States Department of Justice; (vii) the attorneys for the Ad Hoc Group, and (viii) all parties who have requested notice in these chapter 11 cases. The Plan Proponents submit that no other or further notice need be provided.

NO PRIOR REQUEST

19. No previous request for the relief sought herein has been made by the Plan Proponents to this or any other court.

WHEREFORE, the Plan Proponents respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: April 29, 2011
New York, New York

[Signature Pages Follow]

Respectfully submitted,

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